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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

In re:

NATIONAL SECURITY AGENCY TELECOMMUNICATIONS RECORDS LITIGATION

This Document Relates To:

McMurray v. Verizon Communications, Inc., et al., No. 09-cv-0131-VRW

MDL Dkt. No. 06-1791-VRW

STIPULATION AND [PROPOSED] ORDER EXTENDING RESPONSE DATE FOR THE TELECOMMUNICATION CARRIERS

[Civil L.R. 6-1(b); 7-12]

Courtroom: 6, 17th Floor
Judge: Hon. Vaughn R. Walker

Dockets.Justia.com

RECITALS

A. On July 10, 2008, Plaintiffs Rev. Joe McMurray, et al. ("*McMurray* Plaintiffs"), filed a complaint against Defendants Cellco Partnership; Verizon Communications Inc. ("Verizon"); BellSouth Corporation, AT&T Corporation, and AT&T Inc. (collectively, "the AT&T Defendants"); George W. Bush, "individually in his executive capacity and as representative of the United States of America," and the National Security Agency (collectively, the "Government Defendants") in the United States District Court for the Southern District of New York. *See McMurray v. Verizon Communications, Inc., et al.*, No. 08-cv-006264 (S.D.N.Y.).

B. On December 19, 2008, the Judicial Panel on Multidistrict Litigation transferred *McMurray* to this MDL.

C. On January 21, 2009, this Court approved (a) the parties' joint stipulation providing that no defendant need answer or otherwise respond to the complaint in *McMurray* until March 19, 2009, and (b) Plaintiffs' dismissal without prejudice of Defendant Cellco Partnership from the action. *See* Dkt. No. 550 in 06-cv-01791.

D. On February 6, 2009, the United States filed an administrative motion to treat McMurray as subject to the United States' pending motion to dismiss all cases against the telecommunication carrier defendants pursuant to § 802 of the Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008, Pub. L. No. 110-261, 122 Stat. 2436 ("FISAAA" or "Act"). See Dkt. No. 557 in 06-cv-01791. The Plaintiffs opposed this motion. See Dkt. 561.

E. On February 19, 2009, this Court denied the United States' administrative motion and provided that the "United States shall have until April 3, 2009 to plead or otherwise respond to the complaint in this individual action." Dkt. No. 565 in 06-cv-01791.

F. The parties believe that it will promote efficiency if Verizon and the AT&T Defendants (collectively the "Telecommunication Carrier Defendants") are granted the same extension of time within which to answer or otherwise respond to the complaint in *McMurray*.

G. Neither Plaintiffs nor Defendants intend this stipulation to waive any procedural or substantive defenses, rights or objections, including, but not limited to, the right to challenge personal jurisdiction over any particular Defendant.

STIPULATION

1. The Telecommunication Carrier Defendants, the Government Defendants, and the McMurray Plaintiffs, through their undersigned counsel, hereby stipulate that the Telecommunication Carrier Defendants shall have until April 3, 2009 to file an answer or otherwise respond to the complaint in McMurray v. Verizon Communication, Inc., et al., No. 09-cv-0131-VRW.

2. By entering into this Stipulation, neither Plaintiffs nor Defendants waive any procedural or substantive defenses, rights or objections, including, but not limited to, the right to challenge personal jurisdiction over any particular Defendant.

Dated: February 27, 2009.

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By */s/ Marc H. Axelbaum*
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Attorneys for the AT&T Defendants

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DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B

I, MARC H. AXELBAUM, hereby declare pursuant to General Order 45, § X.B, that I have obtained the concurrence in the filing of this document from the other signatories listed below.

I declare under penalty of perjury that the foregoing declaration is true and correct.

Executed on February 27, 2009, at San Francisco, CA.

/s/ Marc H. Axelbaum
Marc H. Axelbaum

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[PROPOSED] ORDER

Pursuant to the foregoing Stipulation, and good cause appearing, the Court ORDERS the following:

The Telecommunication Carrier Defendants shall have until April 3, 2009 to file an answer or otherwise respond to the complaint in *McMurray v. Verizon Communication,* Inc., et al., No. 09-cv-0131-VRW. By entering into this Stipulation, neither Plaintiffs nor Defendants waive any procedural or substantive defenses, rights or objections, including, but not limited to, the right to challenge personal jurisdiction over any particular Defendant.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: ________ ___, 2009.

____
Hon. Vaughn R. Walker
United States District Chief Judge